HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P LAKSHMANA REDDY

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Writ Appeal No. 832 OF 2002

Dated: -10-2005

Between:

1. Hindustan Aeronautics Limited (HAL)
   Balanagar, Hyderabad, rep. by its
   Managing Direcor. ..Appellant

And

1. Cyril Emanueal, s/o. John William,
   Occ. Ex-employee of HAL,
   APHB Colony, Moulali
   Hyderabad.
2. Chairman-cum-Presiding Officer,
   Addl. Industrial Tribunal –cum-
   Addl. Labour Court, Himayanathnagar
   HYDERABAD.

..Respondents

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P LAKSHMANA REDDY

Writ Appeal No. 832 of 2002

JUDGMENT: (per the Hon'ble Smt. Justice T. Meena Kumari)

1. The respondent in the writ petition, being aggrieved by the order dt. 26-3-2002 passed by a learned single Judge of this court in W.P.No.23655/1995, filed the present appeal.

2. The appellant is the Management and the 1st respondent herein is the workman and hereinafter they are referred to as Management and the workman. The 2nd respondent herein is the Additional Industrial Tribunal-cum-Additional Labour Court (for short 'the Tribunal')

3. Questioning the Award in I.D. No. 314/93 dated 26.5.1994 passed by the Tribunal confirming the order of the Management dated 11.2.1990, the workman filed the above writ petition seeking a direction to the Management to reinstate him into service with back wages. In the writ petition, it is the case of the workman that he was a confirmed employee of the second respondent company (Management) and working as Electro PLater having been appointed on 14.4.1997 and he was discharging his duties to the best of his ability and to the satisfaction of his superiors and it is also stated that the second respondent had issued Service Certificate on 15.8.1987 appreciating his meritorious service. It was also further stated that some of the Officers, who bore grudge, leveled false charges against him and got four charge memos issued from 1.12.1988 till 24.8.1989 and there was departmental enquiry, which was in violation of principles of natural justice and in the departmental enquiry, ultimately he was found guilty. It was also stated that even though the findings of the Enquiry Officer were in his favour, the Management had passed an order dated 11.2.1990 dismissing the workman from service and aggrieved by the same, the workman had raised an industrial dispute under Section 2-A(2) of the A.P. Industrial Disputes (Amendment) Act and the same was numbered as I.D.No.271/90 of L.C.No.1, Hyderabad and renumbered as I.D.No. 314/93 on the file of the Labour Court (R2 herein). It was also stated that the workman had taken a defence that the proceedings at all stages are

in violation of principles of natural justice, and the first respondent dismissed the said I.D. It was further stated that the petitioner is having wife and two children and an old age mother, who is sick. It was the case of the Management that the writ petition is not maintainable and there is no violation of rule or regulation and the impugned award and dismissal order are in accordance with law. It was also stated that in view of the observations made in the award passed by the Labour Court, the petitioner is not entitled to claim any relief in the writ petition.

4. The learned single Judge upon considering the rival contentions and having gone through the entire material made available on record, set aside the impugned award and remitted the matter back to the first respondent-Labour Court for the purpose of considering afresh as to imposing any of the minor penalties specified under the Standing Orders of the second respondent therein. Aggrieved by the said findings, the Management-2nd respondent therein filed the present writ appeal.

5. Heard both the learned Counsel. Perused the material available on record including the impugned order under appeal, wherein the charges levelled against the first respondent herein were mentioned in detail as well as the punishment for misconduct as per the Standing Orders of the appellant company. Thus, there is no need to restate the same once again. It has to be observed from the order of the learned single Judge that the learned Judge had dealt with the case in the light of the nature of the charges and the observations made by the Tribunal in the award that was impugned before him and had observed that even as per the findings recorded by the Tribunal all is not well in the establishment and hence, unfortunately, the workman fell a prey to the said internal politics. The learned single Judge, after extracting and perusing the Standing Orders of the appellant herein as well as the nature of charges levelled against the workman and gravity of the punishment, had observed that the Tribunal while exercising the powers could have imposed any other penalty instead of imposing the extreme penalty of

dismissal and held that the tribunal had not exercised the discretion under Section 11-A of the Industrial Disputes Act, properly while imposing the extreme penalty in the light of the charges leveled against the workman. From the material available on record the learned Single Judge rightly observed that there are some internal politics in the organization and the petitioner fell a prey to the said politics. Further, as seen from the charges levelled against the workman, and the punishments provided in the Standing Order of the appellant company, it reveals that the punishment is disproportionate to the gravity of the offence of alleged misconduct committed by the workman who does not require the extreme penalty in the light of the facts and circumstances of the case. The Labour Court had also observed that there are some factions in the appellant defence establishment perhaps, some officers who want to displace Mr. Natarajan (workman) might have instigated the petitioner, he fell a prey to their designs and ultimately the petitioner became a victim. Thus, by taking into consideration all the above circumstances of the case, the learned Single Judge had remitted the matter back to the Tribunal for fresh consideration regarding imposing of any of the minor penalties specified under the Standing orders of the appellant herein. The learned single Judge correctly held that the ultimate punishment of dismissal from service is disproportionate to the misconduct alleged against the workman.

6. However, the charges framed with regard to keeping of Nitric Acid open and also with regard to his personal quarrel with the employee in Security zone are proved, it has to be held that the above charges are not so serious for imposing a punishment of removal. As the punishment imposed is disproportionate to the gravity of the offence, we deem it proper to modify the punishment to that of a fresh appointment from the date of passing of the order by the disciplinary authority. The first respondent-workman herein has stated in his affidavit that he is prepared to accept the appointment as a fresh candidate.

Under the above circumstances, we modify the order of the learned Single Judge to the effect that the disciplinary authority should modify the

punishment of removal to that of a fresh appointment from the date of passing of the order without any monetary benefits.

With the above modification, the writ appeal is allowed. No order as to costs.

T. MEENA KUMARI, J

P. LAKSHMANA REDDY, J

Dt. 4 .10.2005

Kvrk/nn/rkk

it is well settled law that this Court in exercise of Certiorari Jurisdiction under Art.226 of the Constitution of India, can issue a direction for correcting the errors of law committed by industrial courts.

AIR 2000 SC 1151

AIR 2003 SC 1377- power of the court to interfere with in 11-A of I.D Act matters.

1991(1) AnWR 610

1991 SC 1070 – Para 16

1991 SC 1241 – para 6

1984 (20 APLJ 98 –Powers of Labour Court.

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

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Writ Appeal No. 832 OF 2002

(Order of the Division Bench made by the

Hon'ble Smt Justice T Meena Kumari)

October 2005

To

SRI K. SUBRAHMANYAM

Hariman Book Sellers

Opp. LIC Building,

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C H E N N A I – 600 002